

Experience of international cooperation on the issues of transboundary EIA

Seminar

“Experience of providing EIA on an example of Nemnovskaya HPP”
Minsk, Belarus, 5 November 2010

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www.unece.org/env/eia



Espoo Convention

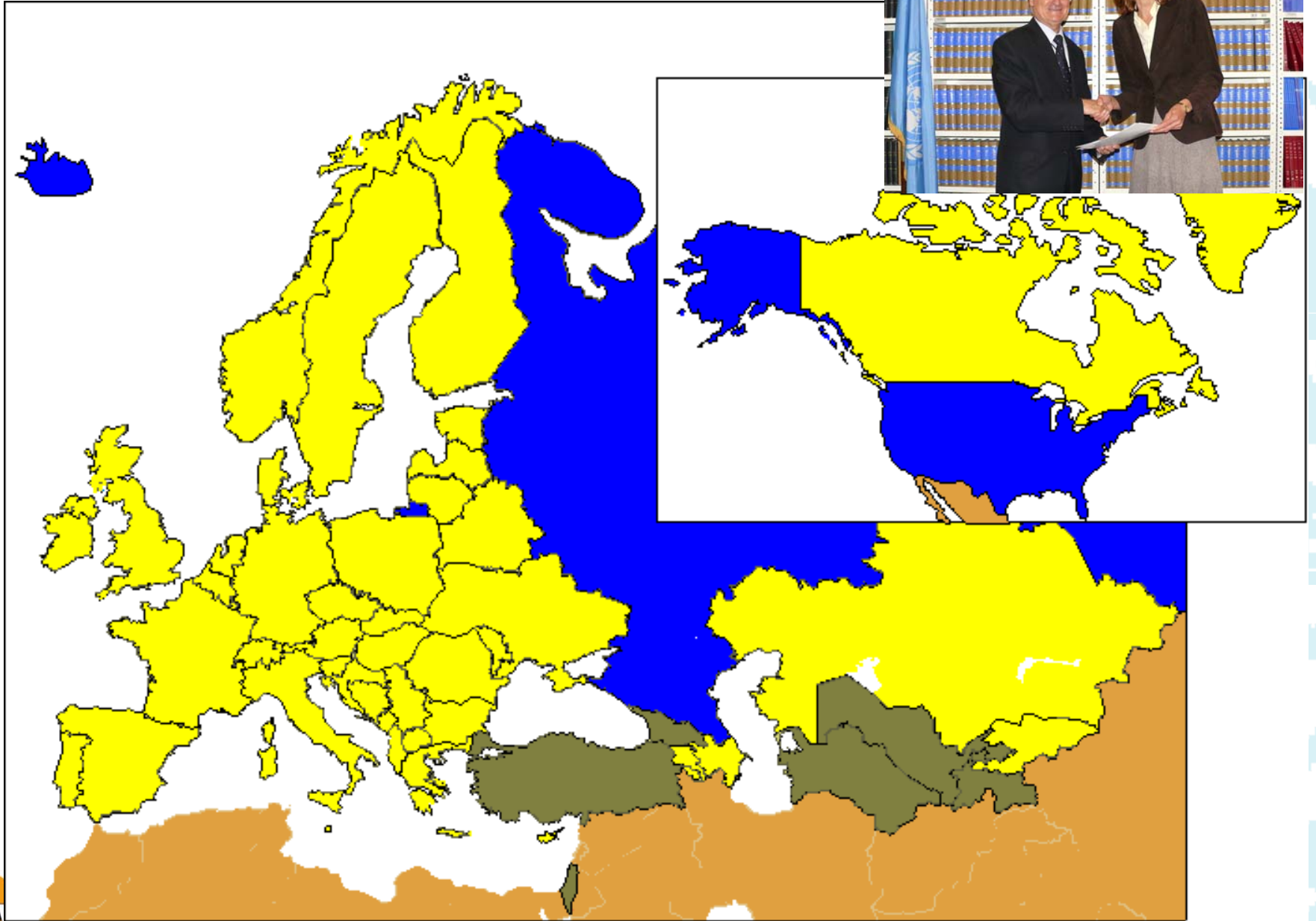
- Espoo Convention and its amendments
- Guidance and agreements
- Review of compliance
- Common difficulties
 - legal implementation
 - practical application
- The way forward
- Information on the Espoo Convention meetings



Espoo Convention in brief

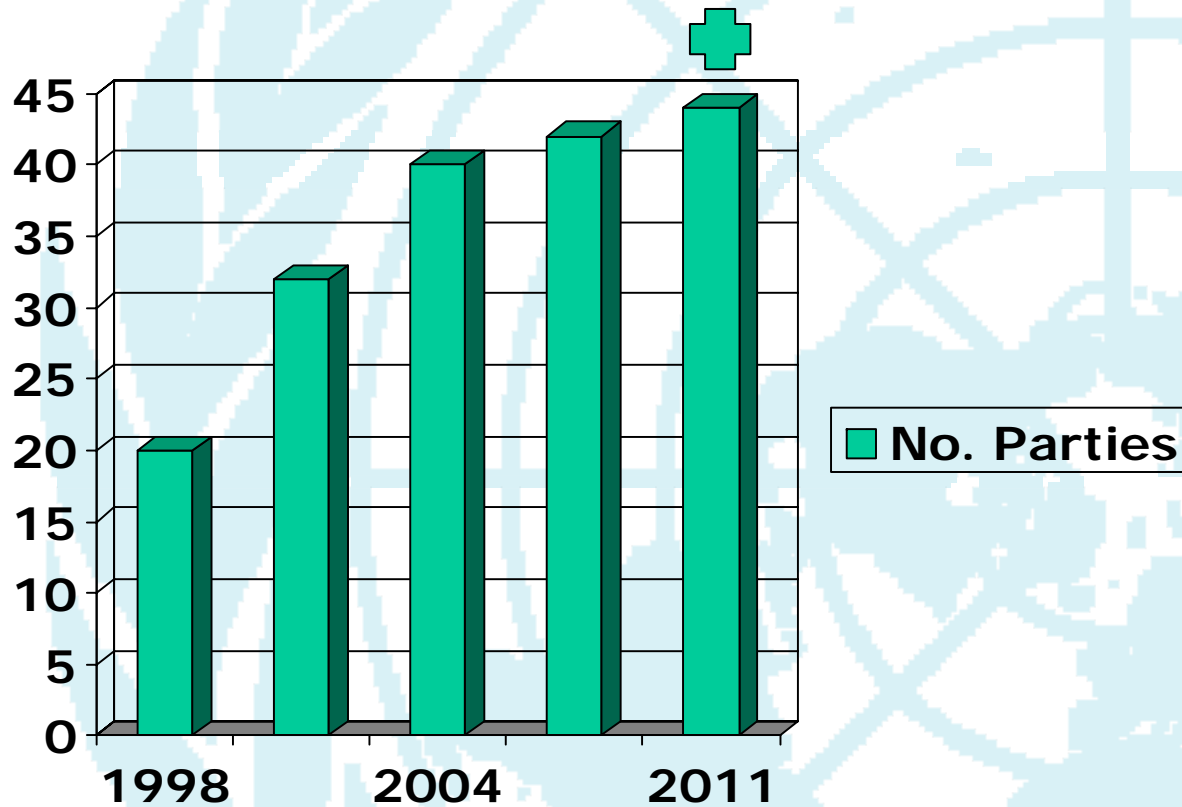
- Convention on Environmental Impact Assessment (EIA) in a Transboundary Context
- Adopted at [Espoo](#) (Finland) in 1991; entered into force in 1997
- Now has 45 Parties
- Sets out obligations of Parties to
 - notify and consult each other on major projects under consideration likely to have significant adverse environmental impact across boundaries
 - assess environmental impact of such activities at early stage of planning
 - take into account in decision the results of consultations, including public participation, and the assessment

UNECE



EIA

Espoo Convention growth in membership



Amendments

- First amendment adopted in 2001- **only 19 Parties (not in force)**
 - Open the Convention to accession upon approval by United Nations Member States that are not members of UNECE
- Second amendment adopted in 2004 - **only 16 Parties (not in force)**
 - Allow, as appropriate, affected Parties to participate in scoping
 - Require reviews of compliance
 - Revise the Appendix I (list of activities)

Espoo Convention

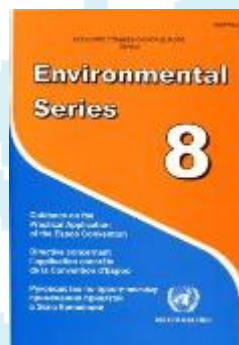
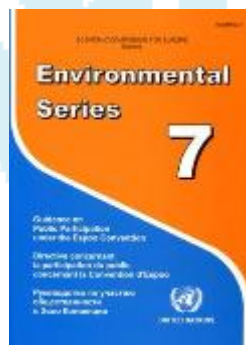
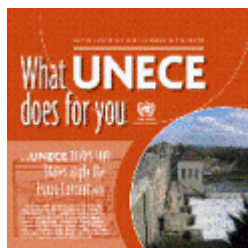
increasingly routine application

- Factors
 - Number of Parties
 - Number of Parties with neighbouring States that are also Parties
 - Confidence in procedure
 - Review of compliance
- Very approximately 30-50 new applications each year



Espoo Convention key guidance

- Guidance on public participation in EIA in a transboundary context
- Guidance on the practical application of the Espoo Convention
- Review of implementation of the Espoo Convention
- Guidance on notification according to the Espoo Convention
- What UNECE does for you ... UNECE makes sure States apply the Espoo Convention



Espoo Convention

bilateral & multilateral agreements

- Multilateral agreement among the countries of South-East Europe for implementation of the Espoo Convention (Bucharest, 2008). Ratified by Bulgaria & Montenegro
- Austria-Slovakia bilateral agreement
- Agreement between Estonia & Latvia on transboundary EIA (1997)
- Agreement between Estonia & Finland on transboundary EIA (2002)
- Outline agreement between Italy & Croatia
- Common Declaration on transboundary EIA between the Netherlands & Germany
- Germany-Poland bilateral agreement (in force from 6 July 2007)
- Agreement between Poland & Lithuania on transboundary EIA

Espoo Convention and bilateral agreements – progress in Belarus?

Draft bilateral agreements for
the implementation of the
Convention:

- Draft Agreement between
Belarus and Lithuania
- Draft Agreement between
Belarus and Poland
- Draft Agreement between
Belarus and Ukraine

**Output 5: National capacity for
Implementation of the Espoo
Convention in Belarus developed:**

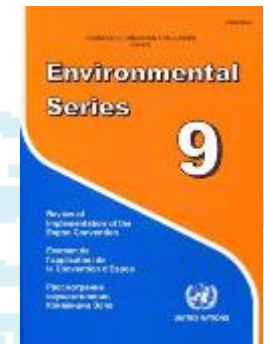
Preparation of legal recommendations and
draft bilateral agreements on implementation
of the Espoo Convention and public
participation in decision-making

Espoo Convention

subregional cooperation

- Eastern Europe Belarus pilot project* (2009-2010)
 - Two subregional workshops expected in 2010
- Baltic Sea Lithuania (2009), (late? 2010)
- SE Europe Bulgaria (2008), Montenegro (2009)
Bosnia and Herzegovina ?(2010)
- Black Sea Szentendre (Hungary), 30 Nov-1 Dec 2010,
organized by REC-CEE
 - Seminar on EIA of large energy project in subregion as part of the Workshop under project "Capacity Building for Effective Implementation of SEA and EIA Laws in Bulgaria, Romania and Turkey"

* Environment & Security Initiative:
UNDP, UNEP, OSCE, UNECE, REC (+NATO)



Common difficulties ...

- Confusion about the respective functions of
 - point of contact for notification
 - focal point for administrative matters
- Need for agreement on time frames for procedural steps & on translation of documentation
- Appendix I of Convention not reflected in full in some Parties
- Frequent lack of a definition of the public
 - Convention refers to "the public"
- Confidential information
 - Convention: "industrial and commercial secrecy or national security" (plus Implementation Committee opinion)



More difficulties...

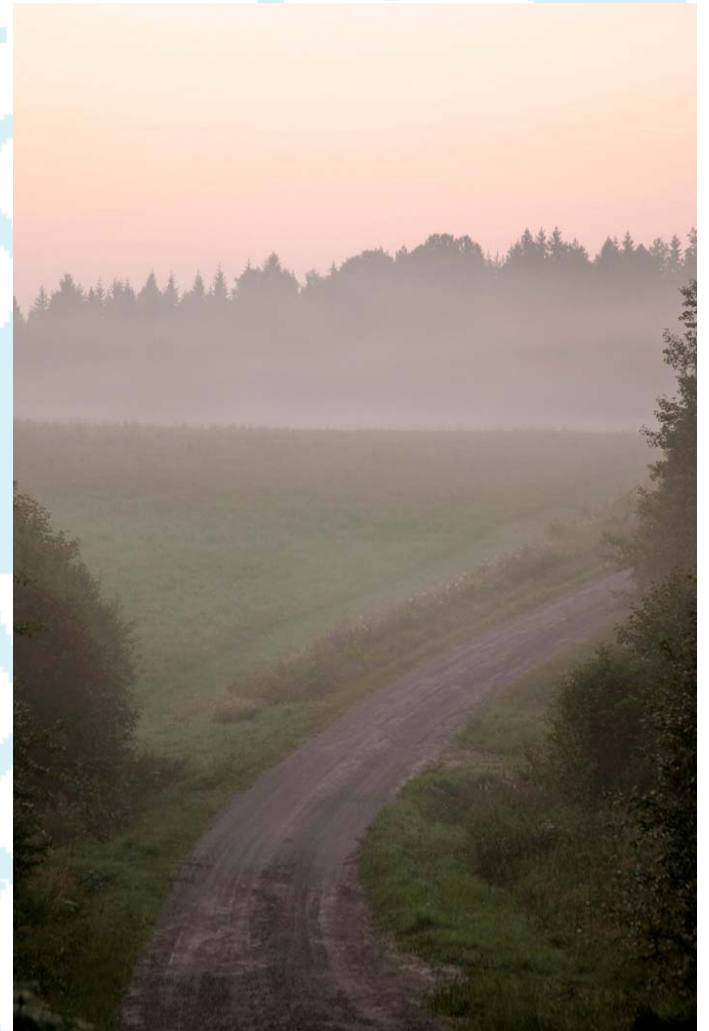
- Diversity of legal & practical approaches to transboundary EIA
 - Espoo Convention based on Western EIA concept – process oriented
 - Traditions of OVOS/expertiza system – substance oriented with two separate legal regimes
 - OVOS - responsibility of developer
 - State expertiza(s) - responsibility of various agencies
- Countries - members of EU has many strengths with respect to Convention, including right of affected country to ask to be notified
 - But what happens if country is not an EU Member State, e.g. Belarus?
- Public has distinct opportunities for participation provided by article 3.8 and article 4.2 of Convention:
 - Comments on and objections to the proposed activity
 - Comments on the EIA documentation

Yet more difficulties....

- Failure to recognize that Convention articles 3.8 & 4.2 state that the “concerned Parties” are responsible for ensuring opportunities for public participation
 - Implementation Committee opinions on this issue
- Authorities to receive the EIA documentation (art. 4.2, Convention) being limited to those with specific environmental responsibilities
- Failure to recognize that Convention article 5 provides for transboundary consultations distinct from article 4. 2
 - Including consultations on alternatives
- Lack of experience in carrying out post-project analysis
 - Convention article 7

Way forward

- Ratification of amendments, their entry into force
- Many practical difficulties can be overcome through bilateral /multilateral agreements:
 - Preliminary consultations about Notification stage, content of notification; language; time frames; costs; how to proceed when no response to notification or if disagreement about need for notification; interpretation of various terms;
- or **other arrangements** - establishment of "Joint Bilateral/ Multilateral Body":
 - joint EIA working group
 - periodical meetings



Way forward



- Considering problematic types of project
 - projects crossing borders (joint projects)
 - projects involving many Parties of origin
 - projects such as those relating to nuclear energy for which there may be many affected Parties or where transboundary impact may be a risk rather than a likelihood
- Review – reporting, compliance
- Guidance and sharing of good practices
- More transboundary EIA – more experience and knowledge

Next meetings under the Espoo Convention

- 22-23 November, 3rd session of the Meeting of the Signatories to the SEA Protocol, Geneva
- 24-26 November, 14th meeting of the Working Group on EIA, Geneva
 - Seminar on climate change in environmental impact assessment and strategic environmental assessment
 - Exchange of good practices - an informal list of over 500 cases in which the Convention has been applied

<http://www.unece.org/env/eia/workinggroup.htm>

Contacts

- For more about the Espoo Convention, visit our website:
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- Or email
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